

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Richard Allen et al.	Examiner: Candace L. Bradford
Appln. No.: 10/687,863	Group Art Unit: 3634
Filing Date: October 17, 2003	Confirmation No.: 9575
Title: RETRACTABLE SCREEN SYSTEM PROVIDING A POSITIONING FORCE FOR A MOVEABLE SASH	Customer No.: 25764
	Docket No.: 292915

DECLARATION OF JAY L. JUNGling UNDER 37 C.F.R. 1.132

I, Jason L. Jungling, declare and state the following:

1. I understand Pella Corporation to be the assignee of U.S. Patent Application No. 10/687,863 (hereinafter the '863 Application).
2. I am currently employed as a Senior Product Engineer at Pella Corporation, which has its headquarters at 102 Main Street, Pella, Iowa 50219, USA.
3. I received my Bachelor's of Technology from the University of Northern Iowa and have worked in the fenestration product field for eight years as an engineer in research and development and product engineering with extensive experience in screen accessories for such products, including retractable screen systems. I was active in the field of screen accessories for fenestration products prior to, during, and after the filing date of the '863 Application.
4. I have reviewed and understand the '863 Application, as well as the claims and claim amendments currently being presented for consideration. I have also reviewed and understand the non-final office action for the '863 Application dated April 10, 2009 (hereinafter the Office Action), as well as the patents forming the basis of the rejections in the Office Action – U.S. Patents 5,544,689 ("Wegner '689"); 6,618,998 ("Thomas"); 6,082,432 ("Kissinger"); 5,787,952 ("Wegner '952"); and 2,350,200 ("Starr").

5. Based upon my review, my engineering background, and my extensive experience in the industry, one of ordinary skill in the art would not modify the cited references to provide the features being presented for consideration in the '863 Application.

6. The '863 Application addresses, among other things, a flexible screen positioned above a moveable window sash and a biasing mechanism generating an upward positioning force on the window sash. I understand Wegner '689, on the other hand, to describe solutions specific to bottom mounted screen roller assemblies and not those where the screen is attached above the window sash. The Office Action cites the background section of Wegner '689 as describing "it is common for the window screen to be house/attached [sic] above the window." Just a few lines later Wegner '689 actually criticizes those "related art" approaches, instead stating that "[i]n practice, the related art does not address the same problem and concerns as does the present invention." Thus, I do not understand Wegner '689 to address or otherwise provide for top mounted constructs – I understand Wegner '689 to address bottom mounted systems in direct contrast to features of the '863 Application being presented for consideration.

7. Moreover, neither Wegner '689 nor the other references cited in the Office Action support incorporating a biasing mechanism generating an upwardly directed positioning force on a window sash. For example, at column 5, lines 48-51 Wegner '689 states that "[t]he window remains open without the application of an extraneous device" and that "[t]he nature of the constant-force spring 34 provides for this on windows with even a minimal resistance to movement." That portion indicates there should not be any substantial positioning force on the window, much less an upward positioning force. In other words, beyond minimally maintaining the screen taught while the window is opened, I understand Wegner '689 to indicate that the window attachment screen system should not place a substantial force on the window sash. At column 2 lines 25-27, Wegner '689 also states that the constant force spring of the window attachment screen system "makes possible retraction of the screen material without itself pulling the window closed." That portion of Wegner '689 indicates to me that a substantial positioning force would be undesirable, in that the

window sash could be pulled closed by such force. In sum, the device of Wegner '689 is directly contrastable to features being presented for consideration in the '863 Application, where Wegner '689 would instead be read by those in the field to lead away from a screen positioned above a movable window sash or applying a positioning force to the window sash in an upward direction by instead teaching the opposite – a bottom mounted window attachment screen system that does not apply a substantial force on a window sash.

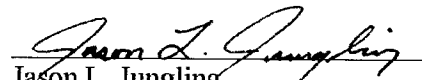
8. The '863 Application also addresses, among other things, upward positioning forces equal to at least 50% of the force of gravity acting on a window sash or at least 20% of the force of gravity acting on a window sash. I believe the Office Action's statements at page 3 regarding providing positioning forces that are at least 20% or at least 50% of the force of gravity are conclusory ("It is commonly known in the art that the biasing mechanism can be adjusted to [sic] that the positioning force comprises various percentages of the force of gravity acting on the window sash."). As previously outlined, Wegner '689 indicates there should be minimal, if any positioning force and, I believe that without the guidance provided in the '689 Application, there simply would be no reason for those in the field to have incorporated positioning forces of at least 20% of the force of gravity or at least 50% of the force of gravity acting on the window sash.

9. Based upon my review, the modifications of Wegner '689 suggested in the Office Action would require a substantial reconstruction and redesign of the elements shown in the references cited in the Office Action as well as a change in the basic principle under which those references were actually designed to operate. For example, moving the window attachment screen system of Wegner '689 to the top of the window and then altering the spring to actually exert a substantial positioning force, the exact opposite of how the Wegner '689 device appears to operate, goes against the basic design principles of Wegner '689, and would require a substantial reengineering and redesign of the Wegner '689 window attachment screen system. Moreover, I do not believe any of the other cited patents overcome the issues outlined above or otherwise would have led those in the field to the features of the '863 Application being presented for consideration.

10. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001.

Respectfully submitted,

By:


Jason L. Jungling

Dated: August 7, 2009
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